



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/044,581	10/23/2001	Timothy Gayle Goux	CARE01 (8116.110574)	4848
6980	7590	11/13/2006	EXAMINER	
TROUTMAN SANDERS LLP 600 PEACHTREE STREET, NE ATLANTA, GA 30308			TOMASZEWSKI, MICHAEL	
			ART UNIT	PAPER NUMBER
			3626	

DATE MAILED: 11/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/044,581	GOUX, TIMOTHY GAYLE	
	Examiner	Art Unit	
	Mike Tomaszewski	3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8, 17-19, 24-30 and 32-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8, 17-19, 24-30 and 32-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Notice To Applicant

1. This communication is in response to the amendment filed on 8/28/06.

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office Action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 8/28/06 has been entered.

Claims 9-16, 20-23, and 31 have been cancelled; claims 1-4, 6, 8, 17, 19, 24-25, 28, and 32 have been amended; and claims 34-35 are newly added. Claims 1-8, 17-19, 24-30, and 32-35 are currently pending.

Claim Rejections - 35 USC § 112

2. The new matter objection is hereby withdrawn due to the amendment and RCE filed on 8/28/06.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-3, 5-8, 24-28, and 33-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Martinez (Martinez, Shandra. "Hospital Passes Review By National Accreditation Agency" Jul 19, 2000. The Grand Rapids Press. pg. L.6; hereinafter Martinez), in view of Simpson (Simpson, Roy L. "Size Up The Big Three" Mar 2001. Nursing Management. Vol. 32, Iss. 3. pg. 12; hereinafter Simpson), and in view of Ando et al. (US 2002/0013717; hereinafter Ando).

(A) As per currently amended Claim 1, Martinez discloses a method for providing improved performance of an insured healthcare facility (Martinez: pg. L.6), the method comprising the steps of:

- (1) determining insurance program requirements designed to reduce risks of accidents associated with the healthcare facility (Martinez: pg. L.6).

(Examiner notes that Martinez teaches, "Without JCAHO accreditation, a hospital cannot qualify for federal Medicare funds or receive payment from health-insurance providers." Examiner considers accreditation of a hospital (i.e., healthcare facility) by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) to be an insurance program requirement designed to reduce and/or prevent accidents.)

Martinez, however, fails to *expressly* disclose a method for providing improved performance of an insured healthcare facility, the method comprising the steps of:

- (2) formulating an insurance program containing the insurance program requirements;
- (3) reducing risks of accidents associated with the healthcare industry by implementing procedures designed for the insured entity to meet the insurance program requirements;
- (4) monitoring the results of the procedures to identify the conformance of the insured healthcare facility to the program requirements;
- (5) identifying the conformance of the insured healthcare facility to the program requirements; and
- (6) communicating data indicative of the conformance of the insured healthcare facility to an interested third party.

Nevertheless, these features are old and well known in the art, as evidenced by Ando and Simpson. In particular, Ando and Simpson disclose a method for providing improved performance of an insured healthcare facility, the method comprising the steps of:

- (2) formulating an insurance program containing the insurance program requirements (Ando: abstract; ¶ [0001])

(Examiner also notes that Martinez teaches an insurance program containing insurance program requirements, albeit not *expressly* the *formulation* of such an insurance program *per se.*);

- (3) reducing risks of accidents associated with the healthcare industry by implementing procedures designed for the insured entity to meet the insurance program requirements (Simpson: pg. 12; Examiner notes one of Simpson's salient teachings includes the implementation of mandatory proactive assessment programs (i.e., procedures) aimed at stopping accidents by identifying high-risk activities and taking steps to reduce their risk in order to comply with JCAHO standards and in turn, with insurance program requirements.)

(Examiner also notes that although Martinez does not *expressly* teach implementing procedures designed for the insured entity to meet the insurance program requirements *per se*, Martinez does allude to the implementation of such procedures. For example, Martinez teaches, "To earn the [JCAHO accreditation] designation, the hospital had to meet the organization's [i.e., JCAHO's] nationally recognized health-care standards" and "the organization [i.e., JCAHO] gave kudos for...the [hospital] staff's knowledge of procedures and safety precautions that are in place.");

- (4) monitoring the results of the procedures to identify the conformance of the insured to the program requirements (Ando: abstract; ¶ [0001]);
- (5) identifying the conformance of the insured to the program requirements (Ando: abstract; ¶ [0001]); and
- (6) communicating data indicative of the conformance of the insured to an interested third party (Ando: abstract; ¶ [0001]).

One of ordinary skill in the art would have found it obvious at the time of the invention to combine the teachings of Simpson with the combined teachings of Ando and Martinez with the motivation of improving reducing the risk of healthcare facility related accidents (Simpson: pg. 12).

One of ordinary skill in the art would have found it obvious at the time of the invention to combine the teachings of Ando with the combined teachings of Simpson

Art Unit: 3626

and Martinez with the motivation of inducing an insured entity to comply with insurance program requirements (Ando: abstract; ¶ [0001]).

(B) As per currently amended claim 2, Martinez discloses the method of claim 1, wherein the step of formulating an insurance program containing the insurance program requirements comprises an insured healthcare facility (Martinez: pg. L.6)

(Examiner also notes that Martinez suggests a healthcare facility purchases the insurance program because Martinez teaches that a hospital cannot receive payment from health-insurance providers without accreditation, that is, a healthcare facility needs to both 1) be accredited and 2) have purchased the insurance program to receive payment.)

Martinez, however, fails to *expressly* disclose the method of claim 1, wherein the step of formulating an insurance program containing the insurance program requirements comprises an insured purchasing the insurance program.

Nevertheless, these features are old and well known in the art, as evidenced by Ando. In particular, Ando discloses the method of claim 1, wherein the step of formulating an insurance program containing the insurance program requirements comprises an insured purchasing the insurance program (Ando: ¶ [0018]).

One of ordinary skill in the art would have found it obvious at the time of the invention to combine the teachings of Ando with the combined teachings of Simpson

Art Unit: 3626

and Martinez with the motivation of inducing an insured entity to comply with insurance program requirements (Ando: abstract; ¶ [0001]).

(C) As per currently amended claim 3, Martinez fails to *expressly* disclose the method of claim 1, wherein the step of formulating an insurance program containing one or more insurance program requirements comprises a single insurer offering the insurance program.

Nevertheless, these features are old and well known in the art, as evidenced by Ando. In particular, Ando discloses the method of claim 1, wherein the step of formulating an insurance program containing one or more insurance program requirements comprises a single insurer offering the insurance program (Ando: abstract; ¶ [0001]).

One of ordinary skill in the art would have found it obvious at the time of the invention to combine the teachings of Ando with the combined teachings of Simpson and Martinez with the motivation of inducing an insured entity to comply with insurance program requirements (Ando: abstract; ¶ [0001]).

(D) As per previously presented claim 5, Martinez fails to *expressly* disclose the method of claim 1, wherein the step of monitoring the results of the procedures to identify the conformance of the insured entity to the program requirements further comprises providing feedback to the insured entity regarding compliance with the insurance program requirements.

Nevertheless, these features are old and well known in the art, as evidenced by Ando. In particular, Ando discloses the method of claim 1, wherein the step of monitoring the results of the procedures to identify the conformance of the insured entity to the program requirements further comprises providing feedback to the insured entity regarding compliance with the insurance program requirements (Ando: abstract; ¶ [0068]).

One of ordinary skill in the art would have found it obvious at the time of the invention to combine the teachings of Ando with the combined teachings of Simpson and Martinez with the motivation of inducing an insured entity to comply with insurance program requirements (Ando: abstract; ¶ [0001]).

(E) As per currently amended claim 6, Martinez fails to *expressly* disclose the method of claim 1, wherein the step of communicating data indicative of the conformance of the insured healthcare facility to an interested third party further comprises the steps of:

- (1) attributing a score to the monitored results; and
- (2) providing the score to the interested third party.

Nevertheless, these features are old and well known in the art, as evidenced by Ando. In particular, Ando discloses the method of claim 1, wherein the step of

Art Unit: 3626

communicating data indicative of the conformance of the insured healthcare facility to an interested third party further comprises the steps of:

- (1) attributing a score to the monitored results (Ando: abstract; ¶ [0068], [0079])

(Examiner notes that Ando's exercise monitor records the type of exercise, the *amount* and the *time*. As such, Examiner considers both an amount and time to be numerical scores of monitored results.); and

- (2) providing the score to the interested third party (Ando: abstract; ¶ [0068], [0079]).

One of ordinary skill in the art would have found it obvious at the time of the invention to combine the teachings of Ando with the combined teachings of Simpson and Martinez with the motivation of inducing an insured entity to comply with insurance program requirements (Ando: abstract; ¶ [0001]).

(F) As per previously presented claim 7, Martinez fails to *expressly* disclose the method of claim 6, wherein the step of attributing a score to the monitored results further comprises attributing a numerical score indicating the conformance of the insured entity to the insurance program requirements.

Nevertheless, these features are old and well known in the art, as evidenced by Ando. In particular, Ando discloses the method of claim 6, wherein the step of attributing a score to the monitored results further comprises attributing a numerical score indicating the conformance of the insured entity to the insurance program requirements (Ando: abstract; ¶ [0068], [0079]).

One of ordinary skill in the art would have found it obvious at the time of the invention to combine the teachings of Ando with the combined teachings of Simpson and Martinez with the motivation of inducing an insured entity to comply with insurance program requirements (Ando: abstract; ¶ [0001]).

(G) As per currently amended claim 8, Martinez fails to *expressly* disclose the method of claim 7, wherein the step of communicating data indicative of the conformance of the insured healthcare facility to an interested third party further comprises the step of providing the score to the insured healthcare facility.

Nevertheless, these features are old and well known in the art, as evidenced by Ando. In particular, Ando discloses the method of claim 7, wherein the step of communicating data indicative of the conformance of the insured healthcare facility to an interested third party further comprises the step of providing the score to the insured healthcare facility (Ando: abstract; ¶ [0068]).

One of ordinary skill in the art would have found it obvious at the time of the invention to combine the teachings of Ando with the combined teachings of Simpson

Art Unit: 3626

and Martinez with the motivation of inducing an insured entity to comply with insurance program requirements (Ando: abstract; ¶ [0001]).

(H) As per currently amended claim 24, Martinez discloses the system for providing improved performances for a target entity, the system comprising the components of:

- (1) an independent program catalyst that is operative to:
 - (a) identify program requirements designed to reduce risks of accidents associated with the healthcare industry (Martinez: pg. L.6).

Martinez, however, fails to *expressly* disclose the system for providing improved performances for a target entity, the system comprising the components of:

- (1) an independent program catalyst that is operative to:
 - (b) reduce risks of accidents associated with the healthcare industry by implementing procedures directed towards assisting the target entity in meeting the program requirements (Simpson: pg. 12);

- (c) monitoring the results of the target entity to identify the conformance to the program requirements (Ando: abstract; ¶ [0001]);
 - (d) attributing a score to the monitored results (Ando: abstract; ¶ [0068], [0079]); and
- (2) a web-enabled software solution for providing the monitoring results and the scores to the target entity, the independent program catalyst and an interested third party (Ando: abstract; ¶ [0023]).

One of ordinary skill in the art would have found it obvious at the time of the invention to combine the teachings of Simpson with the combined teachings of Ando and Martinez with the motivation of improving reducing the risk of healthcare facility related accidents (Simpson: pg. 12).

One of ordinary skill in the art would have found it obvious at the time of the invention to combine the teachings of Ando with the combined teachings of Simpson and Martinez with the motivation of inducing an insured entity to comply with insurance program requirements (Ando: abstract; ¶ [0001]).

(l) As per currently amended claim 25, Martinez fails to *expressly* disclose the system of claim 24, wherein said score comprises an indication of the target entity's conformance with said program requirements.

Art Unit: 3626

Nevertheless, these features are old and well known in the art, as evidenced by Adano. In particular, Adano discloses the system of claim 24, wherein said score comprises an indication of the target entity's conformance with said program requirements (Ando: abstract; ¶ [0068], [0079]).

One of ordinary skill in the art would have found it obvious at the time of the invention to combine the teachings of Ando with the combined teachings of Simpson and Martinez with the motivation of inducing an insured entity to comply with insurance program requirements (Ando: abstract; ¶ [0001]).

(J) As per original claim 26, Martinez fails to *expressly* disclose the system of claim 24, wherein the program catalyst is further operative to provide feedback to the insuring entity regarding said monitored results and said score.

Nevertheless, these features are old and well known in the art, as evidenced by Adano. In particular, Adano discloses the system of claim 24, wherein the program catalyst is further operative to provide feedback to the insuring entity regarding said monitored results and said score (Ando: abstract; ¶ [0068], [0079]).

One of ordinary skill in the art would have found it obvious at the time of the invention to combine the teachings of Ando with the combined teachings of Simpson and Martinez with the motivation of inducing an insured entity to comply with insurance program requirements (Ando: abstract; ¶ [0001]).

Art Unit: 3626

(K) As per original claim 27, Martinez fails to *expressly* disclose the system of claim 24, wherein the program catalyst provides feedback to the insuring entity by utilizing the web-enabled software.

Nevertheless, these features are old and well known in the art, as evidenced by Adano. In particular, Adano discloses the system of claim 24, wherein the program catalyst provides feedback to the insuring entity by utilizing the web-enabled software (Ando: abstract; ¶ [0023]).

One of ordinary skill in the art would have found it obvious at the time of the invention to combine the teachings of Ando with the combined teachings of Simpson and Martinez with the motivation of inducing an insured entity to comply with insurance program requirements (Ando: abstract; ¶ [0001]).

(L) As per currently amended claim 28, Martinez discloses the method of claim 1, wherein the step of monitoring the results of the procedures to identify the proximity of the insured healthcare facility meeting the insurance program requirements is performed after the insurance program is issued to the insured healthcare facility (Martinez: pg. L.6).

(M) As per previously presented claim 33, Martinez discloses the system of claim 24, wherein the independent program catalyst monitors the results of the target entity to identify the proximity to meeting the program requirements after the program has been issued to the target entity (Martinez: pg. L.6).

(N) As per new claim 34, Martinez discloses a method for improving performance of a healthcare facility by reducing risks of accidents, the method comprising:

- (1) determining insurance program requirements designed to reduce risks of accidents associated with the healthcare facility (Martinez: pg. L.6); and
- (2) implementing countermeasures to improve insurance program conformance (Martinez: pg. L.6)

(Examiner notes Martinez teaches that the JCAHO, upon inspection of a healthcare facility (e.g., hospital), recommends improvements that a healthcare facility should undertake to receive accreditation and that the healthcare facility, in turn, responds by outlining how the healthcare facility will make improvements (i.e., countermeasures).

Martinez, however, fails to *expressly* disclose a method for improving performance of a healthcare facility by reducing risks of accidents, the method comprising:

- (3) formulating a program containing the insurance program requirements;

- (4) reducing risks of accidents associated with the healthcare industry by implementing procedures designed for the insured healthcare facility to meet the insurance program requirements;
- (5) monitoring the results of the procedures to identify the conformance of the insured healthcare facility to the insurance program requirements;
- (6) identifying the conformance of the insured healthcare facility to the insurance program requirements;
- (7) calculating a performance score indicative of the conformance of the insured healthcare facility to the insurance program requirements;
- (8) communicating data indicative of the conformance of the insured healthcare facility to an interested third party.

Nevertheless, these features are old and well known in the art, as evidenced by Ando and Simpson. In particular, Ando and Simpson disclose a method for improving performance of a healthcare facility by reducing risks of accidents, the method comprising:

- (3) formulating a program containing the insurance program requirements (Ando: abstract; ¶ [0001]);
- (4) reducing risks of accidents associated with the healthcare industry by implementing procedures designed for the insured healthcare facility to meet the insurance program requirements (Simpson: pg. 12);

- (5) monitoring the results of the procedures to identify the conformance of the insured healthcare facility to the insurance program requirements (Ando: abstract; ¶ [0001]);
- (6) identifying the conformance of the insured healthcare facility to the insurance program requirements (Ando: abstract; ¶ [0001]);
- (7) calculating a performance score indicative of the conformance of the insured healthcare facility to the insurance program requirements (Ando: abstract; ¶ [0068], [0079]);
- (8) communicating data indicative of the conformance of the insured healthcare facility to an interested third party (Ando: abstract; ¶ [0001]).

One of ordinary skill in the art would have found it obvious at the time of the invention to combine the teachings of Simpson with the combined teachings of Ando and Martinez with the motivation of improving reducing the risk of healthcare facility related accidents (Simpson: pg. 12).

One of ordinary skill in the art would have found it obvious at the time of the invention to combine the teachings of Ando with the combined teachings of Simpson and Martinez with the motivation of inducing an insured entity to comply with insurance program requirements (Ando: abstract; ¶ [0001]).

(O) As per new claim 35, Martinez discloses a method for improving performance of a healthcare facility by reducing risks of accidents, the method comprising:

- (1) determining insurance program requirements designed to reduce risks of accidents associated with the healthcare industry (Martinez: pg. L.6); and
- (2) providing risk reports from the program catalyst to the insurer describing the conformance to the insurance program requirements by the healthcare facility (Martinez: pg. L.6)

(Examiner notes that Martinez teaches that the JCAHO assesses a healthcare facility's conformance to requirements by, *inter alia*, interviewing staff and patients, reviewing documents and examining facilities that culminates in a risk report.).

Martinez, however, fails to *expressly* disclose a method for improving performance of a healthcare facility by reducing risks of accidents, the method comprising:

- (3) formulating an insurance program for insuring a healthcare facility containing the insurance program requirements;
- (4) executing an insurance relationship program for insuring a healthcare facility containing the insurance program requirements;

Art Unit: 3626

- (5) monitoring the healthcare facility to identify conformance to the insurance program requirements by the healthcare facility, wherein the monitoring is performed by a program catalyst; and
- (6) modifying the insurance program based on the conformance to the insurance program requirements by the healthcare facility.

Nevertheless, these features are old and well known in the art, as evidenced by Ando. In particular, Ando discloses a method for improving performance of a healthcare facility by reducing risks of accidents, the method comprising:

- (3) formulating an insurance program for insuring a healthcare facility containing the insurance program requirements (Ando: abstract; ¶ [0001]);
- (4) executing an insurance relationship program for insuring a healthcare facility containing the insurance program requirements (Ando: abstract; ¶ [0001]);
- (5) monitoring the healthcare facility to identify conformance to the insurance program requirements by the healthcare facility, wherein the monitoring is performed by a program catalyst (Ando: abstract; ¶ [0001]); and
- (6) modifying the insurance program based on the conformance to the insurance program requirements by the healthcare facility (Ando: abstract; ¶ [0001]).

One of ordinary skill in the art would have found it obvious at the time of the invention to combine the teachings of Ando with the combined teachings of Simpson and Martinez with the motivation of inducing an insured entity to comply with insurance program requirements (Ando: abstract; ¶ [0001]).

5. Claims 4, 29, and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Martinez, Simpson, and Ando, as applied to claim 1 above, and further in view of Official Notice.

(A) As per currently amended claim 4, Martinez fails to *expressly* disclose the method of claim 1, wherein the step of formulating an insurance program containing the insurance program requirements comprises several insurance providers underwriting the insurance program.

Nevertheless, Official Notice is taken of the technique of having a plurality of insurance providers underwrite an insurance program. For example, this technique has often been employed in the syndication of insurance whereby a group of insurers or reinsurers take predetermined shares of premiums, losses, expenses, and profits to cover major risks that are beyond the capacity of a single underwriter. As such, Examiner respectfully submits that this technique is old and notoriously well known and was developed and widely used well prior to Applicant's claimed invention.

One of ordinary skill in the art would have found it obvious at the time of the invention to combine the teachings of Official Notice with the combined teachings of Adano, Simpson, and Martinez with the motivation of reducing/spreading risk among several insurers.

(B) As per previously presented claim 29, Martienz fails to *expressly* disclose the method of claim 1, wherein the interested third party is an insurance underwriter.

Nevertheless, Official Notice is taken of the technique of employing an insurance underwriter as a third party. For example, insurance underwriters are often employed to examine, accept, or reject insurance risks, and to classify those risks selected, in order to charge the proper premium for each and thus, spread the risk among a pool of insureds in a manner that is equitable for the insureds and profitable for the insurer. As such, Examiner respectfully submits that this technique is old and notoriously well known and was developed and widely used well prior to Applicant's claimed invention.

One of ordinary skill in the art would have found it obvious at the time of the invention to combine the teachings of Official Notice with the combined teachings of Adano, Simpson, and Martinez with the motivation of reducing/spreading risk among several insurers.

(C) As per previously presented claim 30, Martinez fails to *expressly* disclose the method of claim 1, wherein the interested third party is a reinsurer.

Nevertheless, Official Notice is taken of the technique of employing reinsurer as third party. For example, reinsurers are often employed to assume all or part of an insurance program/policy written by a primary insurance company (i.e., ceding company) and thus, reducing the potential maximum loss (i.e, spreading the risk) of the primary insurance company. Like underwriters, reinsurers also analyze risks to determine whether an insurance risk should be accepted or rejected and classify those risks selected to charge the appropriate premiums. As such, Examiner respectfully submits that this technique is old and notoriously well known and was developed and widely used well prior to Applicant's claimed invention.

One of ordinary skill in the art would have found it obvious at the time of the invention to combine the teachings of Official Notice with the combined teachings of Adano, Simpson, and Martinez with the motivation of reducing/spreading risk among several insurers.

6. Claims 17-19 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Martinez, Simpson, Ando, and Official Notice.

(A) As per currently amended claim 17, Martinez discloses a method for creating an insurance product for an insured healthcare facility while minimizing insurance risks and reducing premium costs, said method comprising the steps of:

- (1) determining insurance program requirements designed to reduce risks of accidents associated with the healthcare industry (Martinez: pg. L.6).

Martinez, however, fails to *expressly* disclose a method for creating an insurance product for an insured healthcare facility while minimizing insurance risks and reducing premium costs, said method comprising the steps of:

- (2) creating a new insurance product containing one or more insurance program requirements (Ando: abstract);
- (3) distributing the new insurance product to the insured healthcare facility through a distribution channel;
- (4) reducing risks of accidents associated with the healthcare industry by providing an insurance program designed for the insured healthcare facility to meet the insurance program requirements;
- (5) monitoring the insured entity to determine whether the insured is meeting the program requirements;
- (6) determining the conformance of the insured to the insurance program requirements; and
- (7) communicating data indicative of the conformance of the insured to a third party.

Art Unit: 3626

Nevertheless, these features are old and well known in the art, as evidenced by Adano, Simpson, and Official Notice. In particular, Adano, Simpson, and Official Notice disclose a method for creating an insurance product for an insured healthcare facility while minimizing insurance risks and reducing premium costs, said method comprising the steps of:

- (2) creating a new insurance product containing one or more insurance program requirements (Ando: abstract);
- (3) distributing the new insurance product to the insured healthcare facility through a distribution channel (Nevertheless, Official Notice is taken of the technique of distributing a product and/or service via a distribution channel. For example, insurance providers often distribute their insurance programs through agents/brokers (i.e., distribution channels). As such, Examiner respectfully submits that this technique is old and notoriously well known and was developed and widely used well prior to Applicant's claimed invention.);
- (4) reducing risks of accidents associated with the healthcare industry by providing an insurance program designed for the insured healthcare facility to meet the insurance program requirements (Simpson: pg. 12);
- (5) monitoring the insured entity to determine whether the insured is meeting the program requirements (Ando: abstract; ¶ [0001]);

Art Unit: 3626

- (6) determining the conformance of the insured to the insurance program requirements (Ando: abstract; ¶ [0001]); and
- (7) communicating data indicative of the conformance of the insured to a third party (Ando: abstract; ¶ [0001]).

One of ordinary skill in the art would have found it obvious at the time of the invention to combine the teachings of Simpson with the combined teachings of Ando, Official Notice, and Martinez with the motivation of improving reducing the risk of healthcare facility related accidents (Simpson: pg. 12).

One of ordinary skill in the art would have found it obvious at the time of the invention to combine the teachings of Ando with the combined teachings of Simpson, Official Notice, Martinez with the motivation of inducing an insured entity to comply with insurance program requirements (Ando: abstract; ¶ [0001]).

One of ordinary skill in the art would have found it obvious at the time of the invention to combine the teachings of Official Notice with the combined teachings of Adano, Simpson, and Martinez with the motivation of providing a means of distributing an insurance provider's products and services.

(B) As per original claim 18, Martinez fails to *expressly* disclose the method of claim 17, wherein creating a new insurance product comprises creating an insurance product comprising reduced premiums, reduced risk of claims by adherence assurances, and an increased standard in provided services.

Nevertheless, these features are old and well known in the art, as evidenced by Ando. In particular, Ando discloses the method of claim 17, wherein creating a new insurance product comprises creating an insurance product comprising reduced premiums, reduced risk of claims by adherence assurances, and an increased standard in provided services (Ando: abstract; ¶ [0068]).

One of ordinary skill in the art would have found it obvious at the time of the invention to combine the teachings of Ando with the combined teachings of Simpson, Official Notice, and Martinez with the motivation of inducing an insured entity to comply with insurance program requirements (Ando: abstract; ¶ [0001]).

(C) As per currently amended claim 19, Martinez fails to *expressly* disclose the method of claim 17, wherein distributing the new insurance product to the insured healthcare facility though a distribution channel comprises distributing the new insurance product through authorized brokers.

Nevertheless, Official Notice is taken of the technique of distributing a product and/or service via authorized brokers. For example, insurance providers often distribute their insurance programs through entities, such as agents/brokers, who sell and service insurance programs/policies. As such, Examiner respectfully submits that this technique is old and notoriously well known and was developed and widely used well prior to Applicant's claimed invention.

One of ordinary skill in the art would have found it obvious at the time of the invention to combine the teachings of Official Notice with the combined teachings of

Art Unit: 3626

Adano, Simpson, and Martinez with the motivation of providing a means of distributing an insurance provider's products and services.

(D) As per currently amended claim 32, Martinez discloses the method of claim 17, wherein the step of monitoring the insured healthcare facility to determine whether the insured healthcare facility is meeting the insurance program requirements is performed after the insurance program is issued to the insured healthcare facility (Martinez: pg. L.6).

Response to Arguments

7. Applicant's arguments with respect to claims 1-8, 17-19, 24-30, and 32-35 have been considered but they are moot in view of new ground(s) of rejection.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure. The cited but not applied art teaches hospitals receiving JCAHO accreditation and, in turn, receive breaks or discounts from their insurance provider (5,669,877).

Art Unit: 3626

The cited but not applied prior art also includes non-patent literature articles by Burda, David ("Financial Reasons Lead Quest For JCAHO Approval" Sep 25, 1995. Modern Healthcare. Vol. 25, Iss. 39. pg. 28.); Bogardus, Sibyl ("Wellness Programs: Complying With The Americans With Disability Act (ADA)" First Quarter 1993. Benefits Quarterly. Vol. 9, Iss. 1. pg. 53.); and Lilly, Frances S ("Controlling Characteristics Of Group Insureds: Risk Rating" Second Quarter 1993. Benefits Quarterly. Vol. 9, Iss. 2. pg. 65.).

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mike Tomaszewski whose telephone number is (571)272-8117. The examiner can normally be reached on M-F 7:00 am - 3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on (571)272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

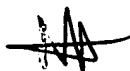
Application/Control Number: 10/044,581

Page 30

Art Unit: 3626

USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MT

A handwritten signature or set of initials, possibly "JA", written in black ink.